

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

CRIMINAL CASE NO. 1:10cr59
[Supervised Release Violation 1:07cr07]
[Supervised Release Violation 1:07cr41]

UNITED STATES OF AMERICA,

vs.

TROY STEVEN MESSER.

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ORDER

THIS MATTER is before the Court *sua sponte* to continue the case from the November 2010 term in the Asheville Division.

On September 21, 2010, the Defendant was charged with felony possession of firearms and ammunition, in violation of 18 U.S.C. §922(g)(1). [Doc. 1]. The Defendant first appeared with counsel on October 26, 2010 at which time he was arraigned and his case was placed on the November 1, 2010 trial calendar.

"Unless the defendant consents in writing to the contrary, the trial shall not commence less than thirty days from the date on which the defendant first appears through counsel or expressly waives counsel and elects to proceed pro se." 18 U.S.C. §3161(c)(2). The Defendant has not so consented and thus, the trial may not start less than thirty days from the appearance with counsel.

In addition, the Court finds that without a continuance, counsel would not have the reasonable time necessary for effective preparation, taking into account the exercise of due diligence. 18 U.S.C. §3161(h)(7)(B)(iv).

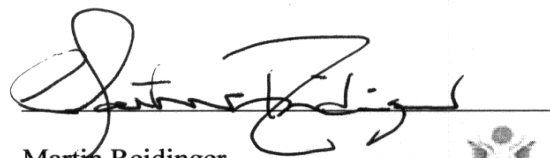
For the reasons stated herein, the ends of justice served by continuing this case outweigh the best interests of the public and the Defendant in a speedy trial. 18 U.S.C. §3161(h)(7)(A).

The Court notes that the Defendant has two pending petitions to revoke his supervised release. Those petitions are based on the alleged conduct which is the subject of the indictment in this action. The Court will therefore order that the three matters be considered together.

IT IS, THEREFORE, ORDERED that the Defendant's case is hereby continued from the November, 2010 term in the Asheville Division.

IT IS FURTHER ORDERED that the petitions to revoke the Defendant's supervised release in Criminal Cases 1:07cr07 & 1:07cr41 shall be considered in conjunction with this matter.

Signed: October 26, 2010


Martin Reidinger
United States District Judge

